

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Janet Gooding	Team: Team # 4	CCRB Case #: 200307456	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 09/19/2003 10:40 PM	Location of Incident: 43 Street and 48 Avenue, Queens	Precinct: 108	18 Mo. SOL 3/19/2005	EO SOL 3/19/2005	
Date/Time CV Reported Sat, 09/20/2003 3:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/24/2003 1:58 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM James Lee	20964	930421	108 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Scott Stelmok	02479	905120	INT CIS
2. SGT Kenneth Yule	04497	910366	108 PCT
3. POF Carolyn Lisoski	22699	930574	108 PCT
4. POM Carlos Rivera	28893	894310	108 PCT
5. SGT John Senese	05600	894355	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM James Lee	Force: At 43rd Street and 48th Avenue in Queens, PO James Lee used physical force against § 87(2)(b)	
B.POM James Lee	Force: En-route to the 108th Precinct, PO James Lee used a chokehold against § 87(2)(b)	

Synopsis

§ 87(2)(b) was arrested for driving while intoxicated (DWI) on September 19, 2003. § 87(2)(b) alleges that PO Lee used physical force against him in placing him into the patrol car. He also alleges that while being transported to the 108th Precinct's stationhouse, PO James Lee switched driving seats with his partner, then stopped the patrol car in a lonely location, removed him from the vehicle and grabbed him by his neck, allegedly choking him. § 87(2)(b) reported the incident to PO Carlos Rivera when he returned to the 108th Precinct.

Duty Captain Rajiv Khurana and Lieutenant Charles Barton of Queens Patrol Borough responded to the 108th Precinct on the night of incident, interviewed § 87(2)(b) and photographed his injury. The case was subsequently referred to the CCRB.

IAB log synopsis 03-23896, together with Captain Khurana's UF49 report, were forwarded to the CCRB on September 24, 2003. A floppy disk containing a photograph of § 87(2)(b)'s injury, (a red mark on the side of his neck) and the audiotape containing the interview were subsequently provided to the CCRB. In his statement to IAB, § 87(2)(b) alleged that PO Lee choked him. (See enclosures 2 – 2B & 3 – 3F.)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) was arrested for driving while intoxicated on September 19, 2003. During his arrest processing during the early morning hours of September 20, 2003 at the 108th Precinct, the arresting officer, PO James Lee informed Sergeant Mary Colgan, the desk officer, that § 87(2)(b) has accused him of choking him. Sergeant Colgan interviewed § 87(2)(b) and prepared a report indicating that § 87(2)(b) stated that PO Lee "caused the mark around his neck by choking him" (enclosure 4). Queens Patrol Borough Duty Captain, Rajiv Khurana were notified of the incident.

Captain Khurana and Lieutenant Charles Barton responded to the 108th Precinct stationhouse and interviewed § 87(2)(b) regarding his allegation. The results of that interview indicate that § 87(2)(b) had difficulty in explaining the exact details of the incident to the interviewer, Lieutenant Barton, stating that his English is not fluent. Nevertheless, § 87(2)(b) told Lieutenant Barton that PO Lee punched him on his back in placing him into the patrol car. Then while transporting him to the 108th Precinct stationhouse, PO Lee changed seats with his female partner, who was initially driving the patrol car, drove for another 15 minutes or more to an unknown location where he put his hands around § 87(2)(b)'s neck, causing a red mark to his neck. The Internal Affairs officers photographed the injury (see enclosures 4A – 4F)

§ 87(2)(b) a § 87(2)(b)-old § 87(2)(b), was interviewed at the CCRB on September 30, 2003. During his interview, § 87(2)(b) stated that on September 19, 2003, upon leaving his job in Manhattan at 7 p.m., he and his friend, § 87(2)(b) went to a bar in Queens where they purchased and consumed one beer each. § 87(2)(b) stated that he placed the empty beer bottle on the floor of his vehicle then started to drive § 87(2)(b) to his home.

§ 87(2)(b) stopped for a red light in the vicinity of 48th Avenue and 43rd Street in Queens. Upon the light change, as § 87(2)(b) shifted the manual gears of his car and it rolled backwards, bumping into a vehicle at the back of him. § 87(2)(b) did not exit his vehicle because he had only "slightly" struck the vehicle. He drove onto 43rd Street and stopped about

three blocks away to park his vehicle. As he was pulling into a space, the car he had struck pulled up with flashing lights. § 87(2)(b) realized at that point that the vehicle he struck was a police car.

According to § 87(2)(b) PO James Lee, whom he described as a Chinese male, approached him. PO Lee's partner, PO Carolyn Lisoski, approached the passenger side of the vehicle. The officers requested that both he and § 87(2)(b) exit their vehicle, and they complied. § 87(2)(b) was released at the scene shortly afterwards and he left the location.

PO Lee looked into § 87(2)(b)'s vehicle and saw the beer can. He then conducted a sobriety test, and had § 87(2)(b) walk a straight line. PO Lee informed § 87(2)(b) that he did not pass the test. § 87(2)(b) argued that he was not drunk that he had just left his job and told PO Lee that he could call his boss to confirm it. PO Lee became upset with § 87(2)(b) pushed him against the police car, handcuffed him, then grabbed him by his shoulder and threw him in the back of the car (allegation A).

PO Lisoski got into the driver's seat and PO Lee sat in the front passenger seat. Sometime while transporting him to the stationhouse, PO Lee told the female officer to stop the vehicle and they switched seats. PO Lee then got into the driver's seat and drove very fast, making abrupt turns causing § 87(2)(b) to toss from side to side. About fifteen minutes later, PO Lee stopped the car on a dark, lonely street. He removed § 87(2)(b) from the car, then grabbed him by his neck and started choking him (allegation B). § 87(2)(b) pleaded with PO Lee not to use any more force against him and PO Lee threw § 87(2)(b) back into the police vehicle and took him to the 108th Precinct stationhouse. At the stationhouse, § 87(2)(b) was charged with driving while intoxicated, and his arrest was processed. § 87(2)(b) does not recall taking a Breathalyzer at another location.)

During the arrest processing at the 108th Precinct, § 87(2)(b) complained to another police officer that he was having neck pains. A police captain, Captain Rajiv Khurana, came to the stationhouse and interviewed § 87(2)(b) asking him about the neck pains he complained about. § 87(2)(b) does not know exactly how the captain became involved in the incident, but assumed that it was because he had a PBA card in his wallet. § 87(2)(b) was arraigned the following day and released. He did not seek medical attention for his injury. (See § 87(2)(b)'s interview report, enclosures 5 – 5B.)

Results of Investigation

Results of IDTU Intoxilyzer (Breathalyzer) Test

A copy of the videotaped Breathalyzer test was obtained and is enclosed in the case file. The tape shows § 87(2)(b) being administered the test in the presence of PO James Lee. The testing Highway 3 officer, PO Michael Villa, repeatedly instructed § 87(2)(b) not to place his hands on the mouthpiece of the testing machine. Other than this, there was no other indication of problems in administering the test or any resistance by § 87(2)(b). All sides of § 87(2)(b)'s neck were visible on tape, and there were no visible injuries. The results of the breath test were .204 percent of blood alcohol level, two and one half times the legal limit of .08 (see enclosures 21 – 21I).

Patrol Borough Investigation

Duty Captain Rajiv Khurana of Queens Patrol Borough, responded to the 108th Precinct stationhouse on the night of this incident upon notification that § 87(2)(b) complained that PO James Lee “choked” him. According to a UF49 report prepared by Captain Khurana, Sergeant Scott Stelmok and Sergeant Kenneth Yule stopped § 87(2)(b) after his vehicle reversed and struck their vehicle. The sergeants stopped § 87(2)(b) and arrested him after

determining him to be intoxicated. The arrest was effected without incident. PO Lee was assigned the arrest and at that time, § 87(2)(b) had no visible injuries and did not make any complaints at that time. Upon returning from the DWI testing location (112th Precinct) § 87(2)(b) § 87(2)(b) alleged that PO Lee grabbed him by his neck while placing him inside an RMP.

Lieutenant Charles Barton of the Patrol Borough Queens North Investigations Unit interviewed § 87(2)(b) in the presence of Captain Khurana. The initial investigation determined that § 87(2)(b) sustained an injury, “a red mark” on his neck. A photograph of § 87(2)(b)'s injury was taken at that time. PO Lee was not interviewed during the initial investigation. Deputy Inspector Charles O'Neill was notified of § 87(2)(b)'s complaint and injury, and he recommended that the case be referred to the CCRB (see enclosures 3 – 3A).

The photograph of § 87(2)(b)'s injury and a copy of the videotaped interview were obtained by the CCRB. The photographs shows two red marks along the left side of § 87(2)(b)'s neck (see enclosure 4F).

Witness Information

§ 87(2)(b) refused to participate in this investigation. § 87(2)(b) failed to show up for an interview appointment on November 25, 2003. Upon contacting § 87(2)(b) on December 5, 2003 about his missed appointment, he stated that he did not want to be a part of this investigation (see enclosure 23 - 23A.) There were no other witnesses to the incident.

Criminal Court Complaint

The online booking worksheet (enclosure 18I) indicates that § 87(2)(b) was initially charged with two counts of traffic violations: VTL 1192.02 and VTL 1192.03 for operating a vehicle under the influence of alcohol or drugs (enclosure 18I). § 87(2)(b)

According to a clerk at the Queens Supreme Court, § 87(2)(b)'s case was closed on § 87(2)(b), upon paying a fine \$1000.00 and a surcharge of \$250.00 (see enclosure 23C).

Police Officer Identification

Sergeant Scott Stelmok, Sergeant Kenneth Yule, PO James Lee and PO Carlos Rivera were identified from departmental records as being involved in this incident. PO Lee identified PO Carolyn Lisoski and Sergeant John Senese as his partners during his CCRB interview. The above officers, with the exception of PO Rivera, confirmed their involvement in the incident during their CCRB interviews. The complainant identified PO James Lee as the subject of his complaint. The investigation revealed that PO Thomas Brennan was present at the location. § 87(2)(g)

The vehicle stop occurred as a result of a vehicular accident and was not a random police stop and § 87(2)(b) did not have any complaints about it. § 87(2)(g)

Sergeant Kenneth Yule's Statement

Sergeant Kenneth Yule's memo book entries indicate one under for DWI assigned arrest to PO Lee at 2205 hours.

During his CCRB interview on January 12, 2004. Sergeant Yule stated that he and Sergeant Scott Stelmok were travelling on 48th Avenue in Queens at about 10:05 p.m. on September 19, 2003. Sergeant Yule, driving an unmarked police vehicle, stopped for a red light at the intersection of 43rd Street, behind a vehicle, later identified as belonging to § 87(2)(b). The vehicle started to slowly roll backwards and Sergeant Yule “popped” his car horn, but the vehicle continued to roll backwards and lightly struck the police vehicle. The light turned green and § 87(2)(b) hesitated then made a right turn onto 43rd Street. Sergeant Yule turned on the flashing lights on his vehicle and stopped § 87(2)(b).

Sergeant Yule and Sergeant Stelmok exited their vehicle and approached § 87(2)(b). Sergeant Yule identified himself as a police officer and asked, “what’s going on.” As § 87(2)(b) started to speak, Sergeant Yule noticed that his eyes were bloodshot, his speech was slurred and he had a strong smell of alcohol on his breath. Sergeant Yule asked § 87(2)(b) where he was coming from and he replied that he was coming from work. Sergeant Yule asked what time he left work, and § 87(2)(b) replied, “7 o’clock.”

Sergeant Yule stated that while he was speaking with § 87(2)(b) Sergeant Stelmok was interviewing the passenger, § 87(2)(b) and observed some spilled beer on the floor together with several empty Corona beer bottles. Sergeant Stelmok informed Sergeant Yule of his observations. Sergeant Yule then asked § 87(2)(b) if he was drinking and § 87(2)(b) told him that he had a “couple” of beers. At that point, he asked § 87(2)(b) to exit his vehicle and placed him under arrest for driving while intoxicated. § 87(2)(b) was released at the scene. Sergeant Yule denied administering a sobriety test to § 87(2)(b) at the location. He stated that only highway patrol officers are qualified to conduct sobriety tests.

Sergeant Yule stated that he requested a patrol car to respond to the location and PO James Lee and other officers assigned to the Conditions vehicle responded to the location. He assigned the arrest to PO Lee. Sergeant Yule observed when PO Lee placed § 87(2)(b) into a patrol car. He did not see § 87(2)(b) put up any resistance and did not see PO Lee use any force against § 87(2)(b). Sergeant Yule did not observe any injuries or redness to § 87(2)(b)’s neck during his contact with him. After § 87(2)(b) left the location, Sergeant Yule resumed patrol and had no further contact with § 87(2)(b) (See Sergeant Yule’s interview report, enclosures 8 – 8A.)

Sergeant Scott Stelmok’s Statement

Sergeant Scott Stelmok did not make memo book entries for this incident. § 87(2)(g)

At the time of this incident, Sergeant Stelmok was assigned to the Internal Criminal Intelligence Section at the 108th Precinct and was partnered with Sergeant Yule.

Sergeant Stelmok stated that while speaking with § 87(2)(b) he observed some spilled beer and empty beer bottles on the floor of § 87(2)(b)’s vehicle. Sergeant Stelmok told Sergeant Yule about the beer and beer bottles and Sergeant Yule placed § 87(2)(b) under arrest for driving while intoxicated and they requested a car to transport him to the stationhouse. They released § 87(2)(b) at the scene. The rest of Sergeant Stelmok’s statement mirrored Sergeant Yule’s.

Sergeant Stelmok also did not observe PO Lee use force against him. He also did not observe injuries on § 87(2)(b)’s neck. (See Sergeant Scott Stelmok’s interview report, enclosures, 10 – 10A.)

PO James Lee’s Statement

§ 87(2)(b)’s arrest was assigned to PO James Lee. PO Lee noted in the online booking worksheet: “Upon car stop, driver had strong odor of alcoholic beverage, slurred speech,

blood shot eyes and off balance. Prisoner test results were .204 %” (enclosure 18I). § 87(2)(b)

§ 87(2)(b) The narrative following the description of § 87(2)(b)'s condition states: A/O (arresting officer) is advised by Police Officer Rivera, Carlos, shield #28892, that the defendant did state to him that if he let him go, he would not make an allegation that the arresting officer did cause him injury to this (sic) neck. But if he didn't let him go, he would have to make an allegation against A/O that he did injure him. A/O is further advised by PO Rivera, that this arrest would effect his status with immigration.

Memo Book Entries

PO James Lee's memo book entries indicate at 2237 hours a car stop at 43rd Street and 48th Avenue with Lt. (William) Schaefer, Sergeant (Scott) Stelmok and Sergeant (Kenneth) Yule, unmarked (car). At 2241 hours – 1 under for DWI, 2350 (previously written time 2255 crossed out) in stationhouse, 23:15 in route to 112th Precinct, 0010 in route to 108th Precinct, 0020 10-62 at stationhouse arrest processing (enclosure 11).

CCRB Interview

During his CCRB interview on January 23, 2004 PO James Lee provided the following statement. On September 19, 2003 PO Lee was assigned to the conditions van with Sergeant John Senese, PO Thomas Brannen and PO Carol Lisoski. They received a radio call from Sergeant Kenneth Yule and Sergeant Scott Stelmok requesting transportation for a person § 87(2)(b) who was arrested for driving while intoxicated (DWI).

Upon arrival at the location Sergeant Yule apprised him of the situation and assigned § 87(2)(b)'s arrest to him. PO Lee handcuffed § 87(2)(b) and recovered some empty beer bottles from § 87(2)(b)'s vehicle. PO Lee denied grabbing § 87(2)(b) by his shoulder and pushing him into the vehicle.

PO Lee transported § 87(2)(b) directly from the location to the 112th precinct for a Breathalyzer test. He believed that he drove the vehicle from the location, but does not recall if he or his partner, PO Lisoski, drove back to the 108th Precinct. He denied switching seats en-route to or from the 112th Precinct or to stopping the vehicle somewhere along the route to the stationhouse or that he grabbed § 87(2)(b) by his neck. PO Lee does not recall § 87(2)(b) putting up any resistance during the incident, but recalled him saying that he knows the police commissioner and knew other NYPD officials that they should release him. PO Lee stated that he did not respond to any of § 87(2)(b)'s remarks.

At the 112th precinct, a trip that took approximately 15 minutes, PO Lee took § 87(2)(b) to the IDTU testing room where a HWY 3 officer administered a Breathalyzer test without problems. § 87(2)(b) failed the Breathalyzer test and he was transported back to the 108th Precinct where his arrest was processed.

While processing § 87(2)(b)'s arrest, PO Carlos Rivera, who assisted PO Lee with the arrest processing and in translating information to and from § 87(2)(b) informed PO Lee that § 87(2)(b) said to tell him that if he does not drop the arrest, he would make a complaint against him. PO Lee informed the desk sergeant about the threat and § 87(2)(b).

§ 87(2)(b) Duty Captain Rajiv Khurana responded to the stationhouse to investigate § 87(2)(b)'s complaint. PO Lee was not interviewed at that time.

PO Lee could not say how § 87(2)(b) sustained redness to his neck. He stated that prior to fingerprinting him, § 87(2)(b) did not have any injuries, but after being fingerprinted he suddenly had scratch marks to his neck. PO Lee stated that § 87(2)(b) was alone inside the holding cell. He did not observe § 87(2)(b) inflict injury to himself. PO Lee denied

inflicting the injury to § 87(2)(b) (See PO James Lee's interview report, enclosures 12 – 12B.)

PO Carolyn Lisoski's Statement

PO Carolyn Lisoski's memo book entries indicate: *2241- 1 under by PO Lee, 2315 –en route to 112 IDTU, 0010 at 108 stationhouse.*

During her CCRB interview on February 4, 2004, PO Lisoski, she stated that she could not recall the specific details of the incident. However, she recalled responding to the vicinity of 43rd Street and 48th Avenue in Queens, but was basically at the location to “watch hands.” That is, making sure no one “grabbed for weapons.” PO Lisoski recalled seeing § 87(2)(b) at the location and observed that he was intoxicated because she saw him swaying. She recalled that she and PO James Lee transported § 87(2)(b) to the 112th Precinct for a Breathalyzer test. PO Lisoski does not recall whether she drove the patrol car at any time during the transportation. She denied switching seats with PO Lee en-route to the stationhouse. PO Lisoski denied seeing PO Lee use force against § 87(2)(b) and did not hear § 87(2)(b) threaten to file a complaint against PO Lee (see PO Lisoski's interview report, enclosures 14 – 14A).

Sergeant John Senese's Statement

Sergeant John Senese was interviewed at the CCRB on February 5, 2004. His memo book entries, indicates at *2241 hours 1 under at 43rd Street and 48th Avenue for DWI, 2300 [10]-62 – administrative at 108th precinct, PO Lee.*

Sergeant Senese stated that he was assigned to the Conditions van to conduct quality of life observations. He and his team, including PO Thomas Brennan, PO Carolyn Lisoski and PO James Lee, responded to 43rd Street and 48th Avenue to assist in an arrest that Sergeant Scott Stelmok and Sergeant Kenneth Yule had effected. When they arrived at the location, Sergeant Senese saw Sergeants Stelmok and Yule speaking with a male, later identified as § 87(2)(b)

According to Sergeant Senese, § 87(2)(b) was “unsteady on his feet,” he had a “strong odor of alcohol,” “slurred speech,” and was speaking loudly. After obtaining the details of the arrest, Sergeant Senese assigned the arrest to PO Lee. PO Lee transported § 87(2)(b) to the 108th Precinct's stationhouse in an RMP and Sergeant Senese followed them there in the Conditions van.

At the 108th Precinct, Sergeant Senese directed PO Lee and PO Lisoski to transport § 87(2)(b) to the 112th Precinct for a Breathalyzer test and he resumed patrol. He did not observe any injuries to § 87(2)(b) at that time and § 87(2)(b) did not make any complaints.

Some time later while Sergeant Senese was on patrol, he was instructed to return to the stationhouse. When he arrived there, Queens Patrol Borough duty captain, Rajiv Khurana, informed him that § 87(2)(b) complained that PO Lee choked him. Sergeant Senese then spoke with PO Carlos Rivera, the officer that translated the complaint, and PO Rivera reiterated that § 87(2)(b) told him to tell PO Lee that he would “not file a complaint against him” if he dropped the charges against him. Sergeant Senese did not interview § 87(2)(b) and did not observe the alleged injuries. (See Sergeant John Senese's interview report, enclosures 17 – 17A.)

PO Carlos Rivera's Statement

PO Carlos Rivera was not directly involved with § 87(2)(b)'s arrest and did not make memo book entries for the incident.

At his CCRB interview on February 4, 2004, PO Carlos Rivera stated that on the date of this incident, he was assigned to the telephone switchboard. PO James Lee asked his assistance in translating information from his Spanish-speaking prisoner, § 87(2)(b). PO Rivera stated

that he obtained § 87(2)(b)'s pedigree information in Spanish and related it to PO Lee in English.

PO Rivera stated that he did not recall § 87(2)(b) asking him to tell PO Lee that he would file a complaint if he did not drop the charges against him. He does not recall relating that threat to PO Lee or anyone else and maintained that he had no recollection about the matter. PO Rivera also did not recall seeing injuries to § 87(2)(b) and had no knowledge that § 87(2)(b) had filed a complaint against PO Lee. (See PO Carlos Rivera's interview report, enclosures 15 – 15A.)

Conclusions and Recommendations

Credibility Assessment

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g) correctly recalled "lightly bumping" into the police vehicle and to being stopped. On the other hand, he incorrectly stated that PO Lee and his partner were the officers that stopped him and that they conducted a field sobriety test. It was evident that Sergeants Yule and Stelmok stopped § 87(2)(b). § 87(2)(g) also did not recall being taken to the 112th Precinct for a Breathalyzer test. § 87(2)(g) he consistently maintained that PO Lee and PO Lisoski switched driving seats and that PO Lee grabbed him by his neck. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g) PO Lee stated that he transported § 87(2)(b) directly from the location of occurrence to the testing site, contrary to command log entries and his supervisor's statement. § 87(2)(b)
§ 87(2)(g)
§ 87(2)(g) He stated that he made the change to conform to the time indicated in the command log, but the command log indicates that § 87(2)(b) was presented at 2321 hours, not 2350 (which conflicts with his following entry of 2315) as the change indicates.

§ 87(2)(g)
§ 87(2)(g)

PO Carolyn Lisoski § 87(2)(g) recalled parts of the incident and assisted in transporting § 87(2)(b) yet she could not recall the details pertaining to the transportation between precincts. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g) PO Rivera maintained that he does not recall the incident. § 87(2)(g)

Undisputed Facts

It is undisputed that § 87(2)(b)'s vehicle struck a police vehicle. Evidence indicates that it was Sergeants Kenneth Yule and Scott Stelmok that stopped § 87(2)(b)'s vehicle and arrested him for driving while intoxicated. § 87(2)(b)'s arrest was assigned to PO James Lee, and he was in PO Lee's custody during the arrest procedure including the administering of a Breathalyzer test at the 112th Precinct stationhouse. § 87(2)(b) sustained an injury to his neck some time during his arrest. § 87(2)(g)

§ 87(2)(b)

Allegation A: Force – At 43rd Street and 48th Avenue in Queens, PO James Lee used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO James Lee grabbed him by his shoulder, pushed him against the police patrol car then threw him into it. PO Lee denied the allegation.

§ 87(2)(b) was intoxicated § 87(2)(g) § 87(2)(b) stated that PO Lee and his partner, PO Carolyn Lisoski initially stopped him and that PO Lee administered a sobriety test at the location, then when he failed the test, PO Lee handcuffed § 87(2)(b) § 87(2)(b) pushed him against the patrol car and threw him into the car. The investigation determined that § 87(2)(b) was stopped by Sergeant Kenneth Yule and Sergeant Stelmok. The officers all stated that a field sobriety test was not conducted, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation B: Force – En-route to the 108th Precinct, PO James Lee used a chokehold against § 87(2)(b)

In his complaint at the 108th Precinct stationhouse and to CCRB, § 87(2)(b) alleged that during the transportation to the precinct, PO James Lee changed driving seats with PO Lisoski, and after driving for about 15 minutes, he exited the patrol car, grabbed him by his neck and choked him. PO Lee denied the allegation.

As explained in allegation A, § 87(2)(b) was deemed to be intoxicated and his recollection of the incident is unclear. However, there is no doubt that § 87(2)(b) sustained an injury to his neck. (Queens Patrol Borough officers, Captain Rajiv Khurana and Lieutenant Charles Barton observed a red mark on § 87(2)(b)'s neck and photographed the injury – enclosure 4F). Even though § 87(2)(b)'s account was not entirely accurate, he was consistent in his statements to Sergeant Colgan, Queens Patrol Borough officers and CCRB, that PO Lee and PO Lisoski changed seats during the transportation to the precinct, that PO Lee stopped the patrol car fifteen minutes later, removed him from the vehicle and grabbed him by his neck. Command log entries and Sergeant Colgan's report (enclosures 4 & 18A) indicated that § 87(2)(b) had no injuries when he was initially brought into the stationhouse and none upon his return from the 112th Precinct. PO Lee stated that he noticed "scratch marks" on § 87(2)(b)'s neck only after he was fingerprinted. He could not say how § 87(2)(b) sustained the injury and did not see § 87(2)(b) inflict the injury to himself. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

However, PO Rivera failed to recall the incident. PO Lisoski on the other hand, whom allegedly changed driving seats with PO Lee, could not specifically recall the details during transportation, or her specific role at that time. § 87(2)(g)

[REDACTED]

Investigator: Janet Gooding

Date: May 6, 2004

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: